

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2023:PHHC:127912

CRM-M-40464-2021

Date of decision: October 3rd, 2023

Shiv Raj Kundu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Karan Jindal, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

The petitioner is impugning order 09.08.2021 (Annexure P-1) passed by learned Additional Sessions Judge, Gurugram, whereby the Court rejected the security papers/title deeds furnished by him for travelling abroad, in case FIR No.353 dated 10.10.2020 under Sections 406, 420, 467, 468, 471, 506, 120-B IPC registered at Police Station Sector 50, District Gurugram.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the son of the petitioner, who is studying in Singapore, was suddenly taken seriously ill and had to be admitted in a hospital on 30.07.2021. As a result thereof, the petitioner had to rush to Singapore to be with his son, who was advised to undergo open heart surgery. Vide order dated 05.08.2021, the application of the petitioner seeking permission to travel abroad was allowed by the learned Additional Sessions Judge, Gurugram, which was however, subject to certain conditions. One of the conditions imposed upon the petitioner was that prior to leaving the country, he would furnish security of some immovable property/bank guarantee worth ₹1 crore, and in case he

misused the concession to travel abroad, the security amount would be forfeited to the State. In pursuance of the conditions imposed, the petitioner duly furnished security in the shape of two sale deeds dated 12.04.2010 (Annexure P-8) and 09.01.2015 (Annexure P-9). However, vide impugned order dated 09.08.2021 (Annexure P-1), the Court below fell into error by rejecting an application filed by him seeking permission to furnish security in terms of order dated 05.08.2021 on the ground that since the petitioner was not present in the Court, the bonds could not be accepted. Learned counsel while drawing the attention of this Court to the order dated 05.08.2021 has asserted that there was no such condition imposed that the petitioner would have to be present in the Court at the time of submitting the bonds. It has also been contended that since there was urgency on account of the serious medical condition of the son of the petitioner, he was confident that after furnishing the security, the bonds would be accepted. Learned counsel has further submitted that it was also a matter of record that during investigation, the investigating agency had not found any substance in the allegations levelled in the FIR in question, as a result of which it had not only prepared a cancellation report but also filed it before the trial Court. In the facts and circumstances of the case, a prayer has been made for allowing the instant petition by setting aside the order dated 09.08.2021 (Annexure P-1).

3. Learned State counsel has drawn the attention of this Court to the reply dated 25.05.2023 filed by way of an affidavit of Assistant Commissioner of Police, Sadar, Gurugram. He submits that since the petitioner was not present in Court on 09.08.2021 for furnishing the securities as he had already left India a day prior thereto, the learned

court below could not be faulted with for rejecting the bonds. It has not been disputed, however, that the condition imposed upon the petitioner for furnishing security of some immovable property/bank guarantee in the sum of ₹1 crore had been complied with by the petitioner as he had furnished security in the shape of sale deeds dated 12.04.2010 (Annexure P-8) and 09.01.2015 (Annexure P-9) in lieu of security before leaving for Singapore on 08.08.2021. Learned State counsel has also not disputed that the investigating agency has prepared a cancellation report in the FIR in question, which in turn, has been submitted before the learned Court.

4. I have heard learned counsel for the petitioner and perused the relevant material on record.

5. In the facts and circumstances as enumerated hereinabove, coupled with the fact that the petitioner had already furnished the requisite security, before leaving India, this Court is inclined to invoke its inherent jurisdiction under Section 482 Cr.P.C. and allow the instant petition. The petition is accordingly allowed.

October 3rd, 2023*Puneet***(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No